

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

* * * * *

CLAREMONT SAVINGS BANK, *
Plaintiff, *

v. *
*

Civil Action No. 1:04-cv-00463-PB

JOSEPH E. HERMAN, JR., NANCY J. HERMAN, *
UNITED STATES OF AMERICA, BUNGALOW *
MUSIC, LIONEL LAVALEE CO., LLC, *
R.H. WHITE CONSTRUCTION CO., INC., *
JAAJ REALTY CORP., and CLAUDETTE *
HERMAN, *
Defendants. *

* * * * *

FINAL JUDGMENT AND DECREE ON CONSENT

WHEREAS, this action was commenced on or about October 19, 2004, with the filing of a Bill in Interpleader in the Sullivan County Superior Court, and removed to this Court on or about December 6, 2004;

WHEREAS, the Plaintiff alleges that on April 12, 2004 it conducted a properly noticed foreclosure of certain real estate allegedly owned by defendants Joseph E. Herman and Nancy J. Herman (the "Real Estate"), and further alleges that excess proceeds from that foreclosure are currently being held in the real estate trust account of plaintiff's counsel;

WHEREAS, defendants Bungalow Music, Lionel Lavalee Co., Inc., R.H. White Construction Co., Inc., JAAJ Realty Corp. and Claudette Herman have failed to appear, answer or otherwise respond to this action; and

WHEREAS, Plaintiffs and the remaining Defendants have consented to the entry of this FINAL JUDGMENT AND DECREE ON CONSENT, in the form and substance as set forth herein;

NOW, THEREFORE, upon review of the relevant papers filed in this action, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

1. This court has jurisdiction over the subject matter of this action.

2. This court has personal jurisdiction over Defendants Joseph E. Herman, Nancy J. Herman, the United States of America, Bungalow Music, Lionel Lavalee Co., Inc., R.H. White Construction Co., Inc., JAAJ Realty Corp. and Claudette Herman.
3. Counsel for plaintiff is now holding \$27,822.57 in escrow, representing the proceeds of the April 12, 2004 foreclosure plus accrued interest ("escrow proceeds").
4. \$13,911.28, representing 50% of the escrow proceeds, shall be paid to defendant United States of America in partial satisfaction of a federal tax lien against Nancy J. Herman.
5. \$1606.54 of the escrow proceeds shall be paid to counsel for the plaintiff for reimbursement of attorneys' fees in maintaining this interpleader action. *See Manchester Fed. Savings & Loan Ass'n v. Emery-Waterhouse Co.*, 102 N.H. 233, 239-40, 153 A.2d 918 (1959).
6. \$12,304.75 of the escrow proceeds shall be paid to defendant Joseph E. Herman, representing 50% of the escrow proceeds less the plaintiff's attorneys' fees.
7. Any interest accruing in excess of the escrow proceeds identified in paragraph 3 above will be paid equally between the United States of America and Joseph E. Herman.
8. The attachments recorded against the Real Estate by defendants Bungalow Music, Lionel Lavalee Co., Inc., R.H. White Construction Co., Inc., JAAJ Realty Corp. and Claudette Herman, referenced in paragraph 8 of the Bill in Interpleader, have expired by operation of law, pursuant to N.H. R.S.A. 511:55, I. *See Remington Investments, Inc. v. Howard*, 150 N.H. 654, 843 A.2d 334 (2004).
9. This Judgment is final and covers all counts of the Complaint.

SO ORDERED THIS 24 DAY OF October, 2005.

/s/ Paul Barbadoro
Paul J. Barbadoro
United States District Judge